

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS
FOR THE DEPARTMENT OF REVENUE

In the Matter of the Revocation
of the Insurance Agent License of
Mark M. Tucker

**FINDINGS OF FACT,
CONCLUSIONS, AND
RECOMMENDATION**

The above-entitled matter came on for hearing before Kathleen D. Sheehy, Administrative Law Judge, on June 17, 2003, at the Office of Administrative Hearings in Minneapolis. The record closed that day.

Wayne L. Sather, Esq., Minnesota Department of Revenue, Mail Station 2220, 600 North Robert Street, St. Paul, MN 55146-2220, appeared for the Department of Revenue (Department).

Mark M. Tucker, 4800 Minnetonka Blvd., St. Louis Park, Minnesota 55416, appeared on his own behalf without counsel

NOTICE

This report is a recommendation, not a final decision. The Commissioner of Revenue will make the final decision after a review of the record. The Commissioner may adopt, reject, or modify the Findings of Fact, Conclusions, and Recommendations. Under Minn. Stat. § 14.61, the final decision of the Commissioner of Revenue shall not be made until this report has been made available to the parties to the proceeding for at least ten days. An opportunity must be afforded to each party adversely affected by this report to file exceptions and present argument to the Commissioner of Revenue. Parties should contact Wayne L. Sather, Attorney, Legal Services Section, Mail Station 2220, St. Paul, MN 55146-2220 or 651/296-8228. The record closes upon the filing of exceptions to the report, or upon the expiration of the deadline for doing so. If the Commissioner fails to issue a final decision within 90 days of the close of the record, this report will constitute the final agency decision under Minn. Stat. § 14.62, subd. 2a. The Commissioner must notify the parties and the Administrative Law Judge of the date on which the record closes.

STATEMENT OF ISSUE

Should Mr. Tucker's insurance agent license be revoked for failure to file income tax returns?

The Administrative Law Judge concludes Mr. Tucker's license should be revoked.

Based upon all of the proceedings herein, the Administrative Law Judge makes the following:

FINDINGS OF FACT

1. Mark Tucker is an insurance agent. He holds Insurance Agent License No. 116172 from the Department of Commerce.
2. Mr. Tucker failed to file income tax returns for 1999, 2000, and 2001.
3. The Department notified Mr. Tucker of the missing returns on January 31, 2003,^[1] and sent him a Demand to File Individual Income Tax Returns on February 19, 2003.^[2]
4. The Department issued a Notice of Intent to Revoke License on March 25, 2003.^[3] Respondent requested a hearing on April 23, 2003.^[4] The Notice of and Order for Hearing in this matter were issued on May 9, 2003.
5. The Respondent does not contest the failure to file tax returns and has committed to do everything possible to file the missing returns within the next 21 days. The Department agreed to recommend that the Administrative Law Judge not file a report for at least 21 days from the date of hearing. If Mr. Tucker were to file the missing returns in that time, the Department would notify the Administrative Law Judge that the matter had been resolved and no report would be required.
6. More than 21 days have passed, and the Department has not notified the Administrative Law Judge that the returns have been filed.

Based upon the foregoing Findings of Fact, the Administrative Law Judge makes the following:

CONCLUSIONS OF LAW

1. The Department and the Administrative Law Judge have authority to consider the issues set out in the Notice of and Order for Hearing and to take the action proposed under Minn. Stat. §§ 14.50 and 270.72, subd. 1.
2. The Department gave proper notice of the hearing in this matter to the Respondent and has complied with all relevant substantive and procedural requirements of law and rule.
3. Respondent has failed to file income tax returns for the years 1999, 2000, and 2001.
4. Minn. Stat. § 270.72, subd. 1, provides as follows:

The state or a political subdivision of a state may not issue, transfer, or renew, and must revoke a license for the conduct of a profession, occupation, trade or business if the commissioner notifies the licensing authority that the applicant owes the state delinquent taxes, penalties, or interest. The commissioner may not notify the licensing authority unless the applicant taxpayer owes \$500 or more in delinquent taxes or has not filed returns. If the applicant taxpayer does not owe delinquent taxes but has not filed returns, the commissioner may not notify the licensing authority unless the taxpayer has been given 90 days' written notice to file the returns or show that the returns are not required to be filed.

5. The Respondent has received 90 days' written notice to file the returns or show that the returns are not required to be filed.

6. Department has met the statutory requirements for notifying the Commissioner of Commerce that Respondent's insurance agent license should be revoked.

Based upon the foregoing Conclusions of Law, the Administrative Law Judge makes the following:

RECOMMENDATION

IT IS HEREBY RECOMMENDED: that the Commissioner of Revenue issue a Notice of License Revocation to the Minnesota Department of Commerce indicating that the Department of Commerce must revoke the Respondent's insurance agent license.

Dated this 11th day of July, 2003.

/s/ Kathleen D. Sheehy

KATHLEEN D. SHEEHY
Administrative Law Judge

Reported: Tape Recorded, one tape.

NOTICE

Pursuant to Minn. Stat. § 14.62, subd. 1, the Commissioner is required to serve the final decision upon each party and the Administrative Law Judge by first-class mail.

^[1] Ex. 4.

[\[2\]](#) Ex. 5.

[\[3\]](#) Ex. 1.

[\[4\]](#) Ex. 2.